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February 29, 2016

VIA ELECTRONIC AND CERTIFIED MAIL

Mr. Jeff S. Jordan, Esq.
Assistant General Counsel
Federal Election Commission
Attn: Donna Rawls, Paralegal
999 E Street, N.W.
Washington, DC 20463

Re: MUR 6996—Joint Response of Peter Clerkin and Amy Emerick-Clerkin

Dear Mr. Jordan:

We write on behalf of Mr. Peter Clerkin and Mrs. Amy Emerick-Clerkin in response to MUR 6996. In December 2015, Meghan Conklin filed a complaint with the Commission claiming that it was “reported” to her almost one year earlier that Amy Emerick-Clerkin and her husband, Peter “were engaged in embezzlement of funds” from Representative Raúl Grijalva’s federally registered principal campaign committee, A Whole Lot of People for Grijalva (the “Committee”).¹ As attested to in the attached declarations from the very sources on which she relies, it is clear that no such thing occurred. We therefore urge the Commission to dismiss this Matter expeditiously.

According to Commission precedent, a complaint must put forward “sufficient specific facts” alleging a violation, and where, such as here, a complaint is not based upon the personal knowledge of the complainant, it must “identify a source of information that reasonably gives rise to a belief in the truth of the allegations presented.”² The Commission will not accept “mere speculation” or “[u]nwarranted legal conclusions from asserted facts.”³ Ms. Conklin’s complaint fails to meet these criteria. The Commission also has held that “a complaint may be dismissed if it consists of factual allegations that are refuted with sufficiently compelling evidence”⁴ One can hardly imagine more compelling evidence to refute an allegation than that presented in this response, which contains unequivocal denials from the respondents as well as from the sources of information on whom the complainant exclusively relies.

¹ Federal Elec. Comm’n MUR 6996, Complaint of Meghan Conklin, dated Dec. 17, 2005 (“Complaint”).

² Fed. Election Comm’n, MUR 4960, Statement of Reasons at 1 (Dec. 21, 2000), available at <http://eqs.fec.gov/eqsdocsMUR/0000263B.pdf>.

³ *Id.* at 2.

⁴ *Id.*

Ms. Conklin served as the Staff Director of the House Committee on Natural Resources for a brief period of time in early 2015.⁵ In that role, she worked with Mrs. Emerick-Clerkin and with Mr. Christopher Kaumo, who were working in Representative Grijalva's congressional office and on the Committee on Natural Resources, respectively, during that period of time. She also became acquainted with Ms. Laura O'Neill Kaumo, then a former fundraiser for the Committee and spouse of Mr. Kaumo, in late 2014 or early 2015, communicating with her on a few occasions. Ms. Conklin does not appear to have, nor does she claim to have, any direct knowledge regarding the conduct that she alleges was reported to her.⁶ It does not appear that Ms. Conklin was ever involved with the Committee's operations or ever had detailed knowledge of its finances or access to its financial records or fundraising database.⁷ Ms. Conklin's complaint instead is based entirely on hearsay information she claims was shared with her by Ms. Kaumo and confirmed to her by Mr. Kaumo. She does not represent to have made any effort to independently verify or substantiate the allegations.⁸

The hearsay information Ms. Conklin claims was reported to her is indeterminate and does not itself constitute an actual allegation of misappropriation or embezzlement. Ms. Conklin claims she was told that campaign cash and checks "had gone missing." She then characterizes that information as an allegation of misappropriation or embezzlement, but she offers no information about the time period in which the cash and checks are alleged to have gone missing, the purported contributors, the amounts at issue, or any other information that might assist the Commission in determining whether misappropriation or embezzlement actually occurred or afford my clients the ability respond to this false accusation in a detailed manner.⁹ She similarly states that she was told that "multiple inconsistencies and irregularities" were introduced into the Committee's fundraising database by Mr. Clerkin, yet she provides no information about the import of the alleged inconsistencies and irregularities, when they occurred, what they related to, or even whether such inconsistencies and irregularities implicate any law or Commission rule.¹⁰

Mr. and Mrs. Kaumo did not share or confirm such information with Ms. Conklin, nor do they have any knowledge of Mr. or Mrs. Clerkin engaging in any embezzlement or misappropriation of Committee funds.¹¹ Mr. and Mrs. Clerkin also are unaware of any factual basis for the allegations contained in the complaint, deny ever having misappropriated or embezzled funds from the Committee, and they are unaware of any cash or checks going missing from the Committee under circumstances suggesting misappropriation or embezzlement.¹² To

⁵ U.S. House of Reps., Statement of Disbursements of the House: January 1, 2015 to March 31, 2015, House Doc. No. 114-29 at 2251 (Apr. 27, 2015).

⁶ See Complaint.

⁷ See Declaration of Amy Emerick-Clerkin at 1; Declaration of Peter Clerkin at 1; Declaration of Christopher Kaumo; Declaration of Laura O'Neill Kaumo at 1.

⁸ See Complaint.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Declaration of Christopher Kaumo; Declaration of Laura O'Neill Kaumo at 1.

¹² Declaration of Amy Emerick-Clerkin at 1-2; Declaration of Peter Clerkin at 1.

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the best of their recollection, checks were lost in the mail, voided, and reissued on two occasions, but such is a common—even if an infrequent—occurrence for contributors and political committees.¹³

Mr. Clerkin denies introducing any “inconsistencies” or “irregularities” into the Committee’s database, and neither he nor Mrs. Clerkin ever recall Ms. Kaumo being blocked from the Committee’s fundraising database after raising concerns about such activity.¹⁴ They do recall that Ms. Kaumo’s database account was inadvertently subjected to certain restrictions when it was created by the Committee’s compliance firm, but those restrictions were removed once the issue was brought to the Committee’s attention.¹⁵

Mr. and Mrs. Clerkin have endeavored to respond as fully as possible to the allegations contained in Ms. Conklin’s peculiar complaint. Ms. Conklin claims no independent knowledge of the underlying facts of the information she claims was relayed to her, and has pointed to no other evidence or sources of information than Mr. and Mrs. Kaumo. The very sources on which she relies have declared that they are unaware of any information to support the allegations contained in her complaint. There is therefore no reason for the Commission to investigate this matter further, nor are there sufficient grounds to believe any violation occurred.

Respectfully Submitted,



Bryson B. Morgan
Caplin & Drysdale, Chtd.



Christopher S. Rizek
Caplin & Drysdale, Chtd.

Enclosure: Declarations of Peter Clerkin, Amy Emerick-Clerkin, Laura O’Neill Kaumo, and Christopher Kaumo.

¹³ Declaration of Amy Emerick-Clerkin at 1-2; Declaration of Peter Clerkin at 1.

¹⁴ Declaration of Amy Emerick-Clerkin at 1-2; Declaration of Peter Clerkin at 1-2.

¹⁵ See Declaration of Amy Emerick-Clerkin at 2; Declaration of Peter Clerkin at 2; Declaration of Laura O’Neill Kaumo at 2.